

FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: December 10, 2018

Agenda Item: Motion Tracking Devices Biennial Rule Amendment

Division: Enforcement

Action Needed: Final

Time Needed on Agenda for this Presentation: 10 minutes

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Background: Montana Code Annotated 87-6-401(1)(d) Unlawful use of equipment while hunting states, A person may not while hunting, possess any electronic motion tracking device or mechanism, as defined by commission rule, that is designed to track the motion of a game animal and relay information on the animal's movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection (1)(d).

"Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in **45-2-101**, or using a dog or a bird of prey for the purpose of shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

Previously the commission has defined and adopted the following regarding motion tracking devices;

“This includes, but is not limited to:

remote operated camera or video devices

seismic devices

electronic trip wires, photo beam or laser devices used to activate tracking or recording devices.

sound amplification devices other than normal hearing aids used regularly by hearing impaired individuals

thermal imaging devices

satellite and radio-telemetry devices”

This definition does not include all current technology or address advances in technology.

The language “This includes but is not limited to:” is very vague and therefore open to inconsistent interpretation.

Public Involvement Process & Results: The public has not had an opportunity to review or comment. Public comment should be taken on this matter at this meeting.

Alternatives and Analysis: Leaving language as is. However, this presents potential interpretation and enforcement challenges for game wardens as well as legal challenges.

Agency Recommendation & Rationale: The department recommends the commission amends as follows;

Remove the language “This includes but is not limited to:” and amend the definition to read:

Remote operated camera or video devices capable of transmitting real time information, pictures or videos; seismic devices; thermal imaging devices; satellite and radio telemetry devices.

Proposed Motion: I move the Fish and Wildlife Commission adopt the proposed motion tracking devices biennial rule.